

John M. Peebles, Cal. Bar No. 237582
Conly J. Schulte, *pro hac vice application to be filed*
Tim Hennessy, Cal. Bar No. 233595
Gregory M. Narvaez, Cal. Bar No. 278367
PEEBLES KIDDER BERGIN & ROBINSON LLP
2020 L Street, Suite 250
Sacramento, CA 95811
Telephone: (916) 441-2700
Fax: (916) 441-2067
Email: jpeebles@ndnlaw.com;
cschulte@ndnlaw.com; thennessy@ndnlaw.com;
gnarvaez@ndnlaw.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STATE OF CALIFORNIA,

Plaintiff,

v.

AZUMA CORPORATION, et al.,

Defendants.

2:23-cv-00743-KJM-DB

**STIPULATION OF THE PARTIES TO
EXTEND BRIEFING SCHEDULE AND
CONTINUE HEARING DATE FOR
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION; ORDER**

(L.R. 143, 230(f))

Action filed: April 19, 2023
Trial date: none

Current hearing date: July 21, 2023
Time: 10:00 a.m.
Courtroom: 3, 15th Floor
Judge: Hon. Kimberly J. Mueller

The parties, through their undersigned attorneys, hereby stipulate as follows:

1. Plaintiff State of California ex rel. Rob Bonta, in his official capacity as Attorney General of the State of California ("State") filed a motion for preliminary injunction, ECF No. 13, on June 16, 2023 ("PI Motion").
2. The current deadlines for the PI Motion are as follows: opposition due June 30; reply due July 10; and hearing on July 21.

1 3. Defendants Azuma Corporation, a corporation wholly owned by and incorporated
2 under the laws of the Alturas Indian Rancheria; Phillip Del Rosa, in his personal capacity and
3 official capacity as Chairman of the Alturas Indian Rancheria; Darren Rose, in his personal
4 capacity and official capacity as Vice-Chairman of the Alturas Indian Rancheria; and Wendy Del
5 Rosa, in her official capacity as Secretary-Treasurer of the Alturas Indian Rancheria (collectively,
6 “Defendants”) moved on June 17, 2023 for administrative relief (ECF No. 14), to link the briefing
7 and hearing schedules for the PI Motion and Defendants’ forthcoming Rule 12 motion. Plaintiff
8 opposed that administrative motion and the Court denied the administrative motion on June 23.
9 ECF No. 17.

10 4. Defendants intend to raise a number of issues in response to the PI Motion, which
11 include: the tribal sovereign immunity of Defendant Azuma Corp.; whether the *Ex parte Young*
12 exception to sovereign immunity applies under the circumstances of this case; the sovereign
13 interests and sovereign immunity of the fourteen non-party tribal retailers identified by the State
14 in the papers supporting its PI Motion; whether the tribal retailers are required and indispensable
15 parties under Rule 19, as the State’s claim that Azuma violated the PACT Act is predicated on the
16 conclusion that the tribal retailers are operating unlawfully; and the California regulatory and tax
17 scheme applicable to cigarette sales and the interplay between these state laws and the federal
18 PACT Act and the preemption and infringement principles of federal Indian law. Counsel for
19 Defendants believes the complexity of these issues requires additional time to prepare an
20 opposition to the PI Motion.

21 5. Defendants therefore sought the State’s agreement to allow an additional 10 days
22 to oppose the PI Motion. The parties met and conferred on June 23, 2023, regarding Defendants’
23 request. The State agreed, provided Defendants would agree to an 8-day extension of the State’s
24 time to reply, and a continuance of the hearing date to August 11, 2023. Defendants agreed to
25 this proposal.

26 6. The parties agree that pursuant to Rules 6(b) of the Federal Rules of Civil
27 Procedure and paragraph 8(B) of the Court’s Standing Order, ECF No. 4-1, there is good cause to
28 extend the briefing deadlines and to continue the hearing date in this matter as set forth herein.

7. Accordingly, the parties hereby stipulate to the following briefing schedule and hearing date for the PI Motion:

Opposition due: July 10, 2023

Reply due: July 28, 2023

Hearing date: August 11, 2023

8. The parties request the Court to enter an order approving the terms of this stipulation.

Dated: June 27, 2023

Respectfully submitted,

PEEBLES KIDDER BERGIN AND
ROBINSON LLP

/s/
Gregory M. Narvaez
Attorneys for Defendants

Dated: June 27, 2023

Respectfully submitted,

Rob Bonta
Attorney General of California
James V. Hart
Supervising Deputy Attorney General
David C. Goodwin
Deputy Attorney General

/s/ Peter Nascenzi (as authorized on
6/26/23)
Peter F. Nascenzi
Deputy Attorney General
Attorneys for Plaintiff

ORDER

Having read the foregoing stipulation of the parties and good cause appearing therefore,
IT IS HEREBY ORDERED that the above stipulation of the parties is approved.

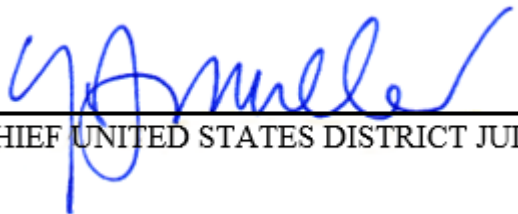
IT IS HEREBY ORDERED the schedule for briefing and hearing of the Plaintiff State of
California's Motion for Preliminary Injunction, ECF No. 13, shall be as follows:

Opposition due: July 10, 2023

Reply due: July 28, 2023

Hearing: August 11, 2023, at 10:00 a.m.

Dated: July 5, 2023.


CHIEF UNITED STATES DISTRICT JUDGE